

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

ALI EKHLASSI	§	
Plaintiff	§	
	§	
v.	§	CIVIL ACTION NO. <u>4:17-cv-1257</u>
	§	
NATIONAL LLOYDS INSURANCE	§	
COMPANY AND AUTO CLUB	§	
INDEMNITY COMPANY	§	
Defendants	§	

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**DEFENDANT NATIONAL LLOYDS INSURANCE COMPANY'S  
NOTICE OF REMOVAL**

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TO THE HONORABLE COURT:

NOW INTO COURT, through undersigned counsel, comes Defendant, NATIONAL LLOYDS INSURANCE COMPANY, a Write-Your-Own ("WYO") Program carrier participating in the United States government's National Flood Insurance Program ("NFIP"), pursuant to National Flood Insurance Act of 1968 ("NFIA"), as amended<sup>1</sup>, and appears herein in its "fiduciary"<sup>2</sup> capacity as the "fiscal agent of the United States,"<sup>3</sup> files this Notice of Removal and would respectfully show as follows:

**INTRODUCTION**

1. Plaintiff, ALI EKHLASSI (hereinafter "Plaintiff"), filed suit in Cause No. 2017-02276, in the 55<sup>th</sup> Judicial District Court of Harris County, Texas, on January 11, 2017.

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<sup>1</sup>42 U.S.C. §4001, *et seq*

<sup>2</sup> 44 C.F.R. §62.23(f)

<sup>3</sup> 42 U.S.C. §4071(a)(1); *Gowland v Aetna Cas. & Surety Co.*, 143 F.3d 951,953 (5<sup>th</sup> Cir. 1998)

2. Defendant, NATIONAL LLOYDS INSURANCE COMPANY (“National Lloyds”), was served with and first received notice of this suit on March 29, 2017.

3. National Lloyds is timely filing this Notice of Removal within 30 days of the date of service or notice. Thus, National Lloyds’s Notice of Removal has been filed within the 30 day period.<sup>4</sup>

#### **NATURE OF THE SUIT**

4. This is a flood insurance claim. Plaintiff owns the property located at 11689 Arrowwood Circle, Houston, Texas 77063 (the “Property”).

5. National Lloyds is a Write-Your-Own (“WYO”) Program carrier participating in the United States government’s National Flood Insurance Program (“NFIP”), pursuant to National Flood Insurance Act of 1968 (“NFIA”).

6. Plaintiff purchased flood insurance bearing Policy No. 1547431881 (the “Policy”) from National Lloyds. The Policy covered the subject Property.

7. On or about May 25, 2015, Plaintiff’s property was allegedly damaged by heavy rains causing flooding. Sometime thereafter, Plaintiff filed a claim with National Lloyds.

8. Plaintiff now asserts breach of contract cause of action against National Lloyds.

#### **BASIS FOR REMOVAL**

9. Removal is proper because Plaintiff’s suit involves a federal question under 42 U.S.C. 4072 and 28 U.S.C. §§1331, 1441(a); *Palmieri v. Allstate Ins. Co.*, 445 F.3d 179, 187 (2d Cir. 2006); *Broder v. Cablevision Sys. Corp.*, 418 F.3d 187, 194 (2d Cir. 2005); *Jamal v. Travelers Lloyds of Texas Ins. Co.*, 97 F. Supp. 2d 800, 804 (S.D. Tex. 2000). This suit concerns a Standard Flood Insurance Policy issued by National Lloyds as a WYO company.

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<sup>4</sup> 28 U.S.C. § 1331, 28 U.S.C. § 1441 (a), and 28 U.S.C. § 1446 (a-b).

10. It is well recognized that federal law governs coverage disputes arising under the National Flood Insurance Act of 1968. *Jamal v. Travelers Lloyds of Texas Ins. Co.*, 97 F. Supp. 2d 800, 804 (S.D. Tex. 2000); *McHugh v. United Servs. Auto. Ass'n*, 164 F.3d 451, 454 (9th Cir.1999); *Leland v. Federal Ins. Adm'r*, 934 F.2d 524, 529 (4th Cir.), *cert. denied*, 502 U.S. 957 (1991); *Sodowski v. National Flood Ins. Program*, 834 F.2d 653, 655 (7th Cir.1987), *cert. denied*, 486 U.S. 1043 (1988). Case-law clearly dictates that federal common and statutory law preempts state principles of contract law for purposes of the interpretation of policies issued. *Jamal*, 97 F. Supp. at 804; *Atlas Pallet, Inc. v. Gallagher*, 725 F.2d 131, 135 (1st Cir.1984).

11. National Lloyds is a carrier participating in the United States government's National Flood Insurance Program. Plaintiff's Property was insured under the National Flood Insurance Program. The basis of Plaintiff allegations is that National Lloyds improperly denied coverage. Therefore, this court has subject matter jurisdiction over this case.

**NATIONAL LLOYDS' NOTICE OF REMOVAL  
IS PROCEDURALLY CORRECT**

12. National Lloyds has filed its answer in the originating State Court simultaneously with this Notice of Removal.

13. National Lloyds has attached to this notice, all pleadings, process, and orders served upon Defendant in this action as required by 28 U.S.C. § 1446(a).

14. National Lloyds has attached to this notice the pleadings, process, orders, docket sheet, index of matters being filed, and list of counsel and parties as required by Local Rule LR-81.

**VENUE AND JURISDICTION**

15. Venue is proper in this district under because this district and division embrace the place in which the removed action has been pending.

16. National Lloyds has contemporaneously filed a copy of this Notice of Removal with the Clerk of the state court in which the action has been pending.

17. A jury demand was not made in the underlying state court action and Defendant requests a jury in the trial of this action. Fed. R. Civ. P. 81(c).

**Dated: April 24<sup>th</sup>, 2017.**

**DOYEN SEBESTA, LTD., LLP**

By: /s/ Scot G. Doyen

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**ATTORNEYS FOR DEFENDANT  
NATIONAL LLOYDS INSURANCE  
COMPANY**

**CERTIFICATE OF SERVICE**

This is to certify that a true and correct copy of the foregoing has been forwarded to all counsel of record via first class mail, electronic service and/or facsimile on this the 24<sup>th</sup> day of April, 2017.

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